

JAN 07 2010 60,469-255
PA-000.05304-USIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hame, Markus, et al.
Serial Number: 10/569,169
Filed: 02/27/2006
Group Art Unit: 3651
Examiner: Singh, Kavel
Title: PASSENGER CONVEYOR DRIVE MONITORING
ARRANGEMENT WITH BRAKE ACTUATION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests pre-appeal brief review of the final rejection of claims 1-5, 7-15 and 18-26 because there is no *prima facie* case of obviousness.

All of the rejections under 35 U.S.C. §103 are based upon the proposed combination of the *Kraft* and *Saito* references.

The *Kraft* reference does not teach what the Examiner contends. Without that, there is no *prima facie* case of obviousness. The Examiner contends that the *Kraft* reference has "at least one drive member (44) that follows a path around a plurality of wheels (38, 58)." There is nothing in the reference, however, that corresponds to a drive member that follows a path around the wheels 38 and 58 of the reference. What the Examiner considers the drive member 44 is a drive unit that is "mounted on the incline" (column 3, lines 45-46). No part of that drive unit follows a path around the wheels 38 and 58. As shown best in Figure 2, the wheels 38 are rollers that support the step chain 15 and the wheels 58 are rollers that support the steps. Neither of those wheels, nor the

60,469-255
PA-000.05304-US

combination of them, establishes a path that the drive unit 44 would follow. Instead those wheels follow a path established, at least in part, by the truss structure of the escalator of the *Kraft* reference as the steps and step chain move together.

Moreover, the drive unit 44 remains fixed on the incline of the escalator and does not follow any path established by the wheels 38 and 58. Given the association between the steps and the step chain and the relative positions of the wheels 38 and 58, it is impossible for the drive unit 44 to be considered to be following a path around those wheels.

The Examiner contends that the drive unit 44 causes the escalator steps and step chain to follow a path and, therefore, the drive unit follows the path. That is not a reasonable interpretation of the reference. Additionally, Applicant's claims are more specific than a generic recitation of a drive member that moves steps and a step chain. The claims require that the drive member "follows a path around a plurality of wheels." The drive unit 44 does not follow any path around the wheels 38, 58 of the *Kraft* reference (nor does anything else, for that matter because nothing moves around those wheels in a manner that would constitute a reasonable interpretation of following a path around those wheels).

Given that the *Kraft* reference does not teach what the Examiner suggests, there is no possible *prima facie* case of obviousness even if it were somehow possible to incorporate a rotary encoder of any kind from the *Saito* reference or any other reference, for that matter. There is no *prima facie* case of obviousness and the rejection must be withdrawn.

Further, there is no *prima facie* case of obviousness because there is no reason to make the proposed combination. The Examiner proposes to add a rotary encoder to determine if the wheels 38 and 58 are rotating at the same speed. Such an encoder would serve no purpose in the *Kraft* reference because the steps and step chain have to move together by virtue of the structure of the

60,469-255
PA-000.05304-US

escalator of the reference. The steps and step chain are interconnected to always move together at the same speed. Therefore, the rollers 38 and 58 are always going to rotate based on the speed of movement of the step chain and steps. There is not going to be any situation in which monitoring any potential difference in speed of rotation between the wheels 38 and 58 would provide any meaningful or useful information because they both always rotate based on the same speed of movement of the step chain together with the steps. Therefore, the legally required reason for making the proposed combination is completely missing and there is no *prima facie* case of obviousness.

The rejections must be withdrawn.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

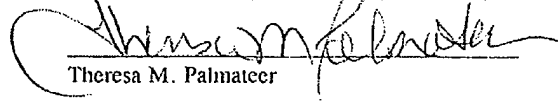
David J. Gaskey, Reg. No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, AL 35209
(248) 988-8360

Dated: January 7, 2010

60,469-255
PA-000.05304-US

CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request for Review, relative to Application Serial No. 10/569,169, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on January 7, 2010.


Theresa M. Palmateer